



Murphy Group CNY, PLLC

600 Pennsylvania Ave, SE
Suite 200
Washington, DC 20003

Brianne E. Murphy*
T: (347) 524-1415
E: brianne@industriellaw.com
*Admitted in New York and Washington, DC

July 25, 2021

By ECF

Honorable Alison J. Nathan
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Koestler v. Shkreli*, 16-CV-7175 (S.D.N.Y.) (AJN)

Dear Judge Nathan:

I write today in response to Your Honor's Order of July 23, 2021. Consistent with Your Honor's Order, please find attached as Exhibit 1, Respondent's July 21, 2021 status update to the Court; and Counsel's email communication to the Court of July 23, 2021 attached hereto as Exhibit 2.

I apologize for the improper form of the July 23, 2021 email, I acted out of urgency given the seriousness of the inaccurate speculative allegations levied against me, and my representations to the Court. As I was imminently traveling via train, I lacked the time and internet bandwidth to address them via ECF in the time that I believed was necessary to not allow such allegations to potentially impact Your Honor's ruling. I have attached a true and accurate version of my informal sir reply for the record as Exhibit 2 hereto.

I further respectfully request permission to file the resume of Mr. Daniel Alonso under seal as allowed by Your Honor's Individual Rules 4A. ***Sealing and Redactions Not Requiring Court Approval.*** Documents presumably sealable absent court approval based on the EGovernment Act of 2002; the Southern District's ECF Privacy Policy ("Privacy Policy") and outlined in Your Honor's Individual Rule 4A. include the five categories of "sensitive information" (i.e., social security numbers, names of minor children, dates of birth, financial account numbers, and home addresses and the six categories of "information requiring caution" (i.e., personal identifying number, medical records (including information regarding treatment and diagnosis), ***employment history***, individual financial information, proprietary or trade secret information, and information regarding an individual's cooperation with the government). As the document in questions is Mr. Alonso's resume, he requested it not be filed on the public docket given the granular level of detail provided, it would appear to fall squarely within the category of information requiring caution and presumed permissible to file under seal absent a motion or the Court's approval.

However, given the Court's Order on July 23, 2021 citing Your Honor's Individual Rules 4B, I am filing this request for approval to file the document under seal; understanding I improperly filed this request via email rather than via ECF.

Respondent recognizes that to be approved, any redaction or sealing of a court filing must be narrowly tailored to serve whatever purpose justifies the redaction or sealing and must be otherwise consistent with the presumption in favor of public access to judicial documents. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). Respondent believes that the level of detail surrounding Mr. Alonso's professional qualifications provided in LETTER addressed to Judge Alison J. Nathan from Brianne Murphy dated July 15, 2021 re: Status Update (ECF 89); together with Exhibit 1 attached hereto, provides the public with ample information as to Mr. Alonso's relevant experience.

Mr. Alonso provided his *Curriculum Vitae* to Respondent in response to Your Honor's July 19, 2021 Order (ECF 95) requiring Respondent to provide a copy of the same; with the express request that it not be filed on the public docket. Weighing the balance of the third-party individual's personal information, which is expressly *information requiring caution* pursuant to Your Honor's Individual Rule 4A excluded from requiring a motion to redact or file under seal, and the sensitivity of his prior experience working for the government against the public interest in the information not only tips heavily in the favor of protecting Mr. Alonso's privacy, but the rules presume as much.

As to meeting and conferring with the impacted parties, Mr. Scarola noted his objection on the record to this in his response papers (ECF 97). I have advised Mr. Alonso of the Court's July 23, 2021 Orders.

I appreciate the Court's time and consideration.

Respectfully submitted,

/s/ _____
Brianne Murphy
Murphy Group CNY, PLLC
600 Pennsylvania Avenue SE, Suite 200
Washington, DC 20003
Phone: (347) 524-1415
Attorneys for Respondent Martin Shkreli

Murphy Group CNY, PLLC

600 Pennsylvania Ave, SE Suite 200 Washington, DC 20003